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FACSIMILE TRANSMITTAL SHEET

TO:		FROM:	
Mail Stop Petition		Trueman H. Denny III 408-737-7200 x124	
COMPANY:		DATE:	
USPTO		MAY 14, 2007	
FAX NUMBER:		TOTAL NO. OF PAGES INCLUDING COVER:	
571-273-8300		8	
PHONE NUMBER:		RE:	
571-272-1871		U.S. 7,079,442	

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Docket #	P015.03.ABC	By:	THD3	Faxing Date	May 14, 2007
Ser. No:	10/612,733	Filing Date:	07/01/03	Inv(s)	Rinerson et al.
Title:	LAYOUT OF DRIVER SETS IN A CROSS POINT MEMORY ARRAY				

The following is being transmitted to the U.S. Patent Office:

Item	Description	# Pgs
1.	Transmittal Form PTO/SB/21	1
2.	Request for Reconsideration of a Decision on an Application for Patent Term Adjustment under 37 CFR § 1.705 (d)	6

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PTO/SB/21 (04-07)

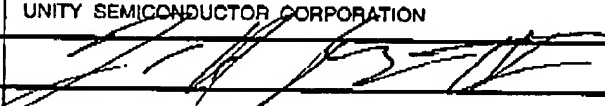
Approved for use through 09/30/2007, OMB 0551-0031

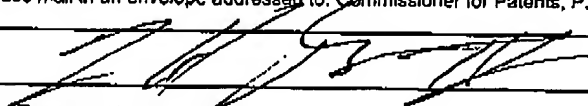
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/612,733	RECEIVED CENTRAL FAX CENTER MAY 4 2007
	Filing Date	07/01/2003	
	First Named Inventor	Darrell Rinerson, et al.	
	Art Unit	2824	
	Examiner Name	Le, Vu Anh	
Total Number of Pages in This Submission	8	Attorney Docket Number	P015.03.ABC

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks 1. UNITY Fax Cover Sheet - 1 Page 2. Request for Reconsideration of a Decision on an Application for Patent Term Adjustment under 37 CFR § 1.705 (d) - 6 Pages		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	UNITY SEMICONDUCTOR CORPORATION		
Signature			
Printed name	Trueman H. Denny, III		
Date	May 14, 2007	Reg. No.	44,652

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Trueman H. Denny III	Date	May 14, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Darrell Rinerson, et al.

Attorney Docket No.: P015.03.ABC

U.S. Patent No.: 7,079,442

Issued: July 18, 2006

Title: **LAYOUT OF DRIVER SETS IN A
CROSS POINT MEMORY ARRAY**

Application No: 10/612,733

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile
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(571) 273-8300 on May 14, 2007.

Signed: 

Trueman H. Denny III

**Request for Reconsideration of a Decision on an Application for
Patent Term Adjustment under 37 CFR § 1.705 (d)****Mail Stop Petition**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Decision on Application for Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction mailed March 19, 2007, the Patentee respectfully requests reconsideration of the decision to revise the patent term of issued U.S. Patent No. 7,079,442 to two hundred seventy-one days (271) instead of the requested three hundred fifteen days (315) for the reasons set forth below.

The Patentee traverses the finding of Senior Petitions Attorney, Nancy Johnson, that pursuant to 37 C.F.R. § 1.704(c)(10), the Applicant delay in filing the Request for Correction of Inventorship under 37 C.F.R. § 1.48 along with a Supplemental Oath/Declaration is 44 days (i.e., 120 days minus an overlap of 76 days).

The Patentee respectfully submits that the Senior Petitions Attorney erred in concluding that the request under 37 C.F.R. § 1.48 and the Supplemental Declaration submitted therewith "was not responded to by the Examiner." Form PTOL-271 ("Response to Rule 312 Communication") constitutes an "Office action or notice in response" pursuant to 37 C.F.R. § 1.704(c)(10)(i) because it was sufficient to

completely execute the Examiner's job functions. The Patentee believes the Examiner acted properly and was not deficient in his duties. Because the Examiner properly acted on March 29, 2006, the period of reduction for Applicant's delay under 37 C.F.R. § 1.704(c)(10) should be 76 days and not four months.

First, as evidence that the Examiner did in fact respond to the § 1.48 request/supplemental declaration, issued U.S. Patent No. 7,079,442 clearly indicates on the front page the inventorship as corrected by the § 1.48 request/supplemental declaration. The inventorship on the issued patent is correct and does not list the name of the deleted inventor, Steve Kuo-Ren Hsia (see INID Code (75)).

Moreover, other officials at the USPTO responsible for implementing Examiner Vu's decision faithfully carried out their responsibilities as well. These other officials correctly interpreted PTOL-271 to be fully responsive to the January 13, 2006, correspondence and ensured the printed patent indicated both the correct specification and the correct inventorship. It is gratuitously noted that the draft Certificate of Correction enclosed with the Senior Petitions Attorney's decision did not attempt to modify the inventorship. In other words, the Senior Petitions Attorney is tacitly acknowledging that the Office did, in fact, correctly act upon the January 13, 2006, paper.

The Patentee discussed the matter with Examiner Vu Anh Le (Art Unit 2824) on March 11, 2007, and it appears that after the Examiner filled out form PTOL-271, the clerk did exactly what the Examiner intended and modified all matters that were addressed in the January 13, 2006, paper. Contrary to the Senior Petitions Attorney's assertion, on March 29, 2006, the Office acted on all aspects of the Patentee's January 13, 2006, request.

Second, it is noted that the Patentee filed a single paper on January 13, 2006, titled "Amendment After Allowance, Before Payment of Issue Fee Pursuant to 37 C.F.R. § 1.312 and Correction of Inventorship 37 C.F.R. §1.48." This single submission is a single request, and not, as the Senior Petitions Attorney contends, multiple papers.

In the single submission, the patent numbers of eight related patents and four related applications were requested to be amended. It would strain credibility to assert that the single request was actually twelve separate rule 312 amendments, each requiring the examiner to issue a separate "Office action or notice in response."

Similarly, it does not make sense to parse out the change of inventorship from the twelve other requested changes.

37 C.F.R. 704(c)(10) allows a reduction in time for a submission of *either* "an amendment under § 1.312 *or* other paper." Because the single paper on January 13, 2006, requested *both* amendments to the specification *and* changes to the inventorship, it must be an "other paper." As recognized by all the other Office officials who processed the January 13, 2006, "other paper," the response the Examiner mailed on March 29, 2006, was clearly an "Office action or notice in response to the ... other such paper."

Finally, rule 704(c)(10), as applied by the Senior Petitions Attorney to the present case, is clearly in violation of 35 U.S.C. § 154. It is a perversion of 35 U.S.C. § 154 to claim that the Patentee failed to engage in reasonable efforts to conclude prosecution of the application because the *Examiner* allegedly failed to fill out form that other officials at the PTO believe is unnecessary. Clearly, such an application of 37 CFR 1.704(c)(10) is contrary to the express language of 35 U.S.C. § 154. Any delay beyond March 29, 2006, was clearly *not* due to a failure to engage in reasonable efforts to conclude prosecution of the application. To the extent Senior Petitions Attorney attempts to use rule 704 to attribute delay to the Patentee is contrary to the clear language of the statute.

Consequently, the period of adjustment under 37 C.F.R. § 1.704(c)(10)(ii) was incorrectly applied to the § 1.48 request/supplemental declaration because the period of adjustment should not have been reduced by four months (i.e., 120 days) minus the overlap of 76 days to arrive at a 44 day reduction. The 44 day reduction assigned to the § 1.48 request/supplemental declaration should not have been added to the applicant delay to arrive at 161 days of total delay (i.e., 41 days + 76 days + 44 days).

Accordingly, the total applicant delay should be 117 days (i.e., 41 days + 76 days) and the PTA should be 315 days and not 271 days. The Patentee notes that the total of 162 days given on page 2 of the Decision appears to be the result of an arithmetic error and is incorrect. The correct total of 41 + 76 + 44 is 161 days.

Therefore, the period of adjustment under 37 C.F.R. § 1.704(c)(10)(i) that was applied to the § 1.312 amendment should have also been applied to the § 1.48 request/supplemental declaration because the mailing date of the March 29, 2007, Office action applies to the § 1.312 amendment and to all other papers submitted

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therewith (i.e., the § 1.48 request/supplemental declaration) per 37 C.F.R. § 1.704(c)(10).

As required by 37 CFR § 1.705 (b), this application includes:

(1) The fee of \$200 as set forth in § 1.18(e) and paid by attached Credit Card payment form PTO-2038.

(2) A statement of facts involved, specifying:

(i) The correct patent term adjustment and the basis or bases under § 1.702 for the adjustment

The adjustment due to examination delay is 366 days under § 1.702(a)(1) and 66 days under § 1.702(a)(4), for a total adjustment due to examination delay of 432 days.

(ii) The relevant dates as specified in §§ 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled;

The application was filed on July 01, 2003. Fourteen months from the filing date was September 01, 2004. The first office action or notice of allowance was mailed 366 days later on September 02, 2005. The Issue Fee was paid on January 13, 2006, and Four months and a day from the payment of the Issue Fee was May 14, 2006. However, the Issue Date for the application is 66 days later on July 18, 2006.

The sum of the periods calculated under § 1.702 (a) through (e), to the extent that such periods are not overlapping, is: 432 days.

(iii) Whether the patent is subject to a terminal disclaimer and any expiration date specified in the terminal disclaimer

No terminal disclaimers.

(iv)(A) Any circumstances during the prosecution of the application resulting in the patent that constitute a failure to engage in reasonable efforts to conclude processing or examination of such application as set forth in § 1.704; or
(B) That there were no circumstances constituting a failure to engage in

reasonable efforts to conclude processing or examination of such application as set forth in § 1.704

An paper titled "Amendment After Allowance, Before Payment of Issue Fee Pursuant to 37 C.F.R. § 1.312 and Correction of Inventorship 37 C.F.R. §1.48" was filed on January 13, 2006, after a notice of allowance was mailed, which is considered a failure to engage in reasonable efforts to conclude processing or examination under § 1.704 (c)(10). A responsive paper was mailed 76 days later on March 29, 2006.

The application became abandoned on December 03, 2005, for failure to timely pay the issue fee due on December 02, 2005. Subsequently, a Petition to Revive was granted on January 30, 2006, which was 59 days after abandonment. However, the period beginning on January 13, 2006, and ending on January 30, 2006, is overlapping with the reduction under § 1.704 (c)(10). Therefore, the reduction of patent term under § 1.704 (c)(3) begins on December 03, 2005, and ends on January 12, 2006, which is 41 days.

Consequently, the period of adjustment set forth in § 1.703 of 432 days should be reduced by 76 days and 41 days for a total of 117 days such that the correct Patent Term Adjustment is 315 days and not the 271 days set forth in the Decision on Application for Patent Term Adjustment and Notice of Intent to Issue Certificate of Correction mailed March 19, 2007.


The Patentee requests that the patent term be adjusted to 315 days as calculated below:

PTO delay of: 66 days + 366 days for a Total of 432 days
Applicant delay of: 41 days + 76 days for a Total of 117 days

Resulting PTA = 432 days – 117 days = 315 days

Should the Office of Petitions believe that a telephone conference would expedite this Application for Patent Term Adjustment under 37 CFR 1.705(d), the undersigned can be reached at the telephone number set forth below.

Respectfully submitted,
Unity Semiconductor Corporation



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Copies (without attachments) to:

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